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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,268	08/30/2001	Charles R. Allen	1787-11800	1011

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EXAMINER
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GARBER, CHARLES D

ART UNIT	PAPER NUMBER
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2856

DATE MAILED: 01/12/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

## Application No.

09/944,268

## Applicant(s)

ALLEN, CHARLES R.

## Examiner

Charles Garber

## Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10-12 is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☒ Claim(s) 5, 7-9, 13-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 11/07/2003 have been fully considered but they are not persuasive.

Applicant argues the extension 36 disclosed by Lukez is not removable from bracket 4 as are the first and second sleeve of the Applicant's invention because the extension and bracket are bonded securely together using adhesive.

Examiner notes the Applicant's specification describes the union nut 301 which is the second sleeve of the invention is not removable from the mount 300 first sleeve portion when assembled for normal operation because the retaining ring 319 secures the nut to the base. The nut may only be removed by mechanically removing the ring. Likewise, the extension 36 is normally secured to the bracket 4 with adhesive. However, an adhesive bond may be removed using mechanical force to break the bond or by using a solvent, thereby effecting removal of the extension. In both the instant invention and Lukez reference the second sleeve portion is not removable in operation by may be removed with the some effort.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Lukez (US Patent 5,065,892).

Regarding claim 1, Lukez discloses a structure for mounting sensors in containers including a conventional bracket 4 shown in figures 1 and 2 with a lower flange 8 or base portion, a sleeve like projection 24 extending from the flange, and a bracket extension 36 with sleeve like side wall 40. The bracket extension or second sleeve is removable and slidably engagable with the projection or first sleeve by inspection. The extension or removable second sleeve may be prevented from complete rotation relative to the projection or first sleeve when engaged with the projection by the clamp 66 which 'secures' the members together. Though the reference does not expressly recite the members being prevented from rotating relative to one another Examiner considers this to be an inherent result when the clamp 66 is sufficiently tightened due to friction and the close fit as shown.

As for claim 2, the flange 8 or base includes a top surface, at least one side surface, and a bottom surface as shown in the figures.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lukez (US Patent 5,065,892) in view of admitted prior art (Admission).

Regarding claim 3, the Lukez reference applied to claim 1 further discloses holes extending through the flange or base top surface for screws to fixedly engage the holes and the device to a container or housing. However, the reference lacks the transducer mount includes slots on the base top surface at the attaching holes. Admission teaches slots at the base attaching holes as shown in figure 1. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include slots in the base at the attaching holes in order to allow the use of shorter fasteners while providing for stiff and secure base that will not flex and disrupt the seal between the base and the container.

As for claim 4, Examiner maintains his unchallenged Official Notice that it is widely known in the art to provide slits, slots and grooves in various devices and one of ordinary skill would have known of their advantageous use in allowing easy separation by prying with a screwdriver.

***Allowable Subject Matter***

Claims 10-12 are allowed.

Claims 5, 7-9, 13-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Please see earlier Office Action for reasons for allowability of claims 5, 7-16.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Garber whose telephone number is (703) 308-6062. The examiner can normally be reached on 6:30 a.m. to 3:00 p.m..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (703) 305-4705. The fax phone

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number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4900.

cdg

  
HEZRON WILLIAMS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800